

## **SAME JOB SAME PAY LEGISLATION – SUBMISSION TO DEWR**

The National Apprentice Employment Network (NAEN) is Australia's largest employer network of apprentices and trainees. Across metropolitan, rural, regional and remote Australia, the network employs some 25,000 apprentices and trainees in a diverse range of industries.

Apprenticeships and traineeships are types of formal training arrangements that combine work with study for a qualification in a trade or occupation.

The NAEN employer network is unique, as it represents the practice of group training under which registered Group Training Organisations (GTOs) directly employ apprentices and trainees and place them with host businesses.

Under this arrangement, registered GTOs are responsible for selecting and recruiting apprentices and trainees, matching them to host businesses, meeting all employer obligations including paying wages and entitlements, and arranging formal training and assessment.

Importantly, apprentices and trainees may be rotated across host businesses when, for example, work has finished with one host, or new skills are needed by the apprentice or trainee. This agile response to managing apprenticeships and traineeships provides continuity and quality of training and assessment and provides the flexibility that is increasingly demanded by industry.

Predominantly not-for-profit registered GTOs have been undertaking this skills development and job generating role for some 40 years, equipping

an estimated one million apprentices and trainees with vital employment skills. There are approximately 130 registered GTOs nationally.

Registered GTOs create more employment opportunities for apprentices and trainees and provide continuity of employment for apprentices and trainees while they are undertaking their qualification.

While some registered GTOs specialise in particular industries such as the traditional trades or hospitality, others cater to entire regions and cover a range of industries. Group training has developed into an industry in its own right.

Registered GTOs have come to occupy a pivotal role in many communities through their links with enterprises, training providers and schools, as well as in Indigenous and remote communities where they play a central role in careers and training.

Registered GTOs have played a significant part in promoting women in non-traditional trades and creating jobs and training for First Nations people through partnerships with local communities, employers and training providers.

NAEN is pleased to provide this submission in relation to the "same job, same pay" request for feedback to inform the design and implementation as a legislative measure, in particular aspects of question 1 of the Same Job, Same Pay Consultation paper in relation to the scope.

**Questions:**

1. The department seeks to clearly identify the scope and application of legislated Same Job, Same Pay measures.
  - a) How should different labour hire arrangements be identified or defined?
  - b) Should any arrangements be excluded from the Same Job, Same Pay measures?<sup>1</sup>

**NAEN strongly contends that Group Training is not part of the Labour Hire Industry and should be separately defined.**

The DEWR consultation paper refers to traditional labour hire, contract management services, recruitment and placement services but does not include group training organisations as a separately identified industry.

Although there may be parts of group training operations that have similarities with labour hire, the similarities end when the aims, objectives and the important role that registered Group Training Organisations (GTOs) play in the employment and training of apprentices and trainees are recognised.

Registered GTO apprentices and trainees are employed under employment contracts which must meet the requirements of the Fair Work Act. These employment contracts are permanent full time or part time and are linked to the duration of the training contract. The training contracts must comply with the provisions of state or territory vocational training instruments.

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<sup>1</sup> <https://www.dewr.gov.au/2023-workplace-reform-consultations/resources/same-job-same-pay-consultation-paper>

Registered GTOs operate under National Standards for GTOs and are audited by state and territory training authorities. This is based on a quality system and minimum operating standards.

The National Standards for Group Training Organisations (and Evidence Guide) promote national consistency and quality for Group Training. All registered Group Training Organisations (GTOs) are listed on the National Register. They must adhere to the National Standards. State or Territory Training Authorities (STAs) are responsible for registering GTOs in their jurisdictions. They also check their compliance with the National Standards. Registered GTOs must follow the National Standards to maintain their registration.<sup>2</sup>

Group Training can reverse the casualisation of the workforce and work closely with local communities to convert often short-term opportunities into full time apprenticeships and traineeships through group training.

NAEN acknowledges that a small number of GTOs do provide “labour hire” services to industry in some occupations, but a group training employment arrangement is different to “labour hire”.

## **How should different labour hire arrangements be identified or defined?**

### **The Distinction between Group Training and Labour Hire**

**Group Training:** Primarily not-for-profit charity-based organisations employing apprentices or trainees full time or part time under an employment contract linked to a training contract. Apprentices or trainees are placed into host employment arrangements with organisations that supervise day to day, provide training on-the-job and release apprentices or trainees for training and assessment by

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<sup>2</sup> [Group Training Organisation National Standards | Australian Apprenticeships](#)

a registered training organisation. GTOs monitor apprentices and trainees, provide pastoral care services and support to the workplace supervisors and arrange all training and assessment services. Payroll is managed by the GTO.

**Labour Hire:** For profit companies employing various categories of employee that are placed with businesses usually on a casual basis as part of an employment contract.

### **Should GTOs be excluded from the scope of Same Job, Same Pay Legislation?**

GTOs should be differentiated from labour hire companies in the scope of the Same Job, Same Pay Legislation.

NAEN is not aware if the intent of the legislation is that the group training industry comes within the scope of the proposal. If it is deemed to be within the scope of the proposed legislation, NAEN makes the following submission.

#### **Questions:**

3. Would the above-listed criteria capture when a labour hire worker is performing the 'same job' as a directly engaged employee?
4. Are there scenarios where these criteria would not operate clearly or lead to unintended outcomes? If so, what criteria should be used to identify when a labour hire worker is performing the 'same job' as a directly engaged employee, and why?<sup>3</sup>

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<sup>3</sup> ibid

**What criteria should be used to identify when an apprentice or trainee employed by a registered Group Training Organisation (GTO) is performing the “same job” as a directly employed employee.**

In order to establish the “same job” to which the “same pay” for apprentices and trainees who are placed with a host employer will apply, the following criteria should be considered:

- The industrial instrument applicable to the host employer’s workplace in which the apprentice and/or trainee is placed;
- Whether the host employer instrument includes apprentice and/or trainee rates and entitlements;
- That the identification of the same job for apprentices and/or trainees from the group training industry is a comparison between directly employed apprentices and/or trainees to whom a training contract applies and who are in the same year level or competency progression level as the hosted apprentices and/or trainees;
- The comparison must also be between apprentices and/or trainees undertaking the same qualification.

The above criteria seek to ensure that the comparison is with like employed apprentice and/or trainees and not persons undertaking similar type of work who are not subject to a training contract.

## Transition

The impact of Same Job, Same Pay measures on workers and business may require a transition period before any entitlement or obligations commences.

### Questions:

20 Should there be a transition period before Same Job, Same Pay measures commence operation, if enacted? If so, how long should the transition period, and why?<sup>4</sup>

NAEN submits that the inclusion of group training sector in the Same Job, Same Pay legislation would require adjustment to existing provisions and payroll operations. Given the large range of host employer placements, this would require significant resources to identify Same Job and Same Pay, and as a result adjust reporting and payroll systems.

NAEN submits that a transition period should be provided for to allow GTOs to adjust to any new requirements and that a 1-year phase-in would allow adequate time to adjust.

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<sup>4</sup> ibid